

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Sek Chung Fung *et al.*

Confirmation No.: 4825

Application No.: 10/583,927

Art Unit: 1643

Filed: December 23, 2004

Examiner: Rawlings, Stephen L.

For: NOVEL ANTI-IL 13 ANTIBODIES  
AND USES THEREOF

Attorney Docket No.: 12279-187-999

**STATEMENT REGARDING THE PERMANENCE AND AVAILABILITY OF  
DEPOSITED MICROORGANISMS UNDER 37 C.F.R. §§ 1.801-1.809**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, **Irene T. Pleasure, Head of Patents** of Genentech, Inc., the assignee of the above-captioned application, having a place for the transaction of business at 1 DNA Way, South San Francisco, California, 94080, declare and state that:

1. The hybridoma cell line 228B/C-1, which produces the anti-interleukin-13 antibody 228B/C-1 was deposited with the American Type Culture Collection ("ATCC"), located at 10801 University Blvd., Manassas, Virginia on December 23, 2003, in compliance with the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure ("Budapest Treaty") by Tanox, Inc. (subsequently acquired by Genentech, Inc.). The deposited microorganism was assigned Accession No. PTA-5657 for hybridoma cell line 228B/C-1.

2. I hereby assure the United States Patent and Trademark Office and the public that (a) all restrictions on the availability to the public of the microorganism referred to in paragraph 1 will be irrevocably removed upon issuance of a United States patent of which such

microorganism is subject; (b) the microorganism will be maintained for a term of at least thirty (30) years and at least five (5) years after the most recent request for the furnishing of a sample of the deposited microorganism was received by the ATCC, and in any case, samples will be stored under agreements that would make them available beyond the enforceable life of the patent for which the deposit was made; (c) should the deposit become non-viable, it will be replaced by the assignee; and (d) access to the microorganism will be available to the Commissioner during the pendency of the patent application or to one determined by the Commissioner to be entitled to such microorganism under 37 C.F.R. § 1.14 and 35 U.S.C. § 122. A copy of the Receipt of Deposit for the microorganism referred to in paragraph 1 have been attached to this statement as Exhibit A. Availability of the deposited material is not to be construed as a license to practice the invention in contravention of the rights granted under the authority of the U.S. government in accordance with its patent laws.

3. I hereby declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that I make these statements with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under § 1001 of Title 18, and would jeopardize the validity of the application or any patent issuing thereon.

Date:

5/26/2011

Respectfully submitted, <sup>JD</sup>

Irene T. Pleasure

**Irene T. Pleasure**  
**Head of Patents**  
**Genentech, Inc.**

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

**INTERNATIONAL FORM**

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.**

To: (Name and Address of Depositor or Attorney)

Tanox, Inc.  
Attn: Michael Fung  
10301 Stella Link  
Houston, Texas 77025

Deposited on Behalf of: Tanox, Inc.

**Identification Reference by Depositor:**

Mouse Hybridoma: 227-26  
Mouse Hybridoma: 227-43  
Mouse Hybridoma: 228A-4  
Mouse Hybridoma: 228B/C-1

**Patent Deposit Designation**

PTA-5654  
PTA-5655  
PTA-5656  
PTA-5657

The deposits were accompanied by:    a scientific description, a proposed taxonomic description indicated above. The deposits were received November 20, 2003 by this International Depository Authority and have been accepted.

AT YOUR REQUEST:   X   We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested December 3, 2003. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Marie Harris  
Marie Harris, Patent Specialist, ATCC Patent Depository

Date: December 23, 2003

cc: Cheryl A. Liljestrand